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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,180	04/26/2006	John Welin-Berger	Welin-Berger	4053

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PORTER WRIGHT MORRIS & ARTHUR, LLP  
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EXAMINER
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PO, MING CHEUNG

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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11/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,180	<b>Applicant(s)</b> WELIN-BERGER, JOHN	
	<b>Examiner</b> MING CHEUNG PO	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/21/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Office Summary***

1. This is the initial office action in response to application 10/577180 filed on 04/26/2006.
2. Claims 1 – 25 are pending and have been fully considered.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear and the specification does not teach enough for one of ordinary skill in the art to reason how the lighting strip is "partly processed in such a way so that thereby, in a non-compacted state of the lighting strip, the possibility of air to pass and in that way get access to a developed seat of fire is presented, or a combustion enhancing supply of oxygen."

5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant claims a plastic strip that burns with an environmental friendly, high-energy, plastic material forming carbon dioxide and water during a combustion at a free access of air.

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No examples of what this plastic material may be and it is not obvious of one of ordinary skill in the art what plastic material possesses these traits.

6. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant claims a plastic strip two or more co-ordinated paper strips and/or plastic strips of the lighting strip are so tightly wound up to a roll and so compactly contained that it can resist alighting by a fire coming from outside.

No examples of what technique or configuration is given on how the roll becomes resistant to alighting by a fire from being rolled up given that according to present claim 1, rapid lighting and a combustion of the paper strip and the plastic strip will take place.

7. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 17 recites the limitation "units" in the second line of the present claim. There is insufficient antecedent basis for this limitation in the claim. The limitation "units" has been construed to mean lighting strips.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 – 5, 8, 9, 11 - 14, 21 - 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUDDE (U.S. 525,912) in view of MAY (U.S. 4,751,122).

Regarding claims 1 - 5, LUDDE teaches a fire kindler that is effective for starting either a wood or coal fire. In lines 12 – 20 of page 1, LUDDE teaches **a closely-wound spiral foundation** strip of combustible material which is coated with **a suitable mixture of hydrocarbons and covered a layer of sawdust (combustion improving substances)**, attached to the inner convolution, so that a quickly ignitable kindler is produced. The strip is taught in lines 33 to be **paper**.

LUDDE does not seem to expressly disclose a plastic layer.

However, MAY teaches in lines 30 - 34 of column 1, a pre-formed structure comprising a **paper substrate with a release coating** on one side and a waterproofing pressure sensitive adhesive membrane permanently attached to the other side. MAY further teaches in lines 55 – 57 of column 1 that a **layer of polyethylene (plastic layer)** may be applied just below the release coating.

It would be obvious to one of ordinary skill in the art to add the layer of polyethylene that MAY teaches onto the closely wound spiral foundation strip of combustible material in place of the sawdust that LUDDE teaches.

The motivation to do so can be found in lines of MAY. MAY teaches in lines 8 – 10 that polyethylene is waterproof.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Regarding claims 8 and 9, that is no reason to believe that the closely-wound

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spiral foundation that LUDDE teaches does not have the capacity to realign somewhat after crumpling up for the formation of a ball-structure nor any reason to believe that the spiral foundation can not support pieces of firewood resting against said ball structure.

Regarding claim 11, there is no reason to believe that the material content in the structure of the paper strip co-ordinated with the thickness and selected material in the plastic strip are not mutually adapted to give a chosen balance between a structural and stability providing capacity and an energy-and power-releasing capacity generated during combustion.

Regarding claims 12 and 13, LUDDE teaches in lines 47 – 50 of page 1 that each strip of combustible material when cut off has applied to one end of its coated side, a thing projecting sulfur-coated ignition strip of highly combustible material.

Regarding claim 14, sulfur is used and can be considered to be adapted for a selected energy release depending on how much is used.

Regarding claim 21, there is no reason to believe that the strip of combustible material that LUDDE teaches may not be allotted a shape bordering on a quadratic outer shape. Furthermore, aesthetic changes that which have no mechanical function cannot be relied upon to distinguish the claimed invention from the prior art. (Please see MPEP 2144.04 I.)

Regarding claim 22, Fig 1 and 2 of LUDDE clearly shows that the inner portion of the strip of combustible material has a tab grippable by a hand and is extended outside the compact helical shape.

Regarding claim 23, there is no reason to believe that the strip of combustible

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material and the polyethylene layer would not have allotted the same or substantially the same thickness.

11. Claims 16 – 17 and, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUDDE (U.S. 525,912) in view of MAY (U.S. 4,751,122) and further in view of SULLIVAN (U.S. 6,136,053).

The above discussion of LUDDE in view of MAY is incorporated herein by reference.

Regarding claim 16 and 17, modified LUDDE does not appear to disclose the helical formation is co-ordinated in a dispenser construction as individual units or wherein a number of such units are co-ordinated to one and the same package.

However, SULLIVAN teaches in reference claim in column 6 an apparatus comprising a strip of cloth, wherein the strip of cloth has been divided into sections by perforated lines.

It would be obvious to one of ordinary skill in the art to divide the strip of combustible material that LUDDE teaches with the perforated lines that SULLIVAN teaches to form a number of individual units.

The motivation to do so can be found in lines 19 - 22 of column 2 of SULLIVAN. SULLIVAN teaches that it is possible to detach a portion of the strip of cloth to start a fire.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Regarding claim 24, SULLIVAN further teaches in reference claim 2 that a plurality of matches is situated on the cloth.

12. Claims 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUDDE (U.S. 525,912) in view of MAY (U.S. 4,751,122) and SULLIVAN (U.S. 6,136,053).and further in view of KAPLAN (U.S. 2,707,581).

The above discussion of modified LUDDE as applied to claims 16 – 17 and, 24 is incorporated herein by reference.

Modified LUDDE does not appear to disclose the strip of combustible material with the polyethylene layer have adjoining and opposite strip-allotted edges provided with one or more seals.

However, KAPLAN teaches a container formed of two sheets of plastic material with the edges sealed in lines 32 - 40 of column 1.

It would be obvious to one of ordinary skill in the art to seal the edges between the strip of combustible material and the polyethylene layer of the helical formation that modified LUDDE teaches with plastic such as taught by KAPLAN in packets.

The motivation to do so can be found in line 28 of column 1 of KAPLAN. KAPLAN teaches that the seal facilitate in stopping any possible leakages.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

13. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over LUDDE in view of KUNKLE (U.S. 2,974,377).

The above discussion of LUDDE is incorporated herein by reference.



Modified LUDDE does not seem to explicitly teach a dessicant is inserted between the paper strip and the polyethylene membrane.

However, KUNKLE teaches in lines 73 - 75 of column 4 and lines 1 - 11 of column 5 a tape that is composed of an elongated strip of vulcanized butyl rubber polybutene compound extruded onto a paper backing strip. A small amount of zinc oxide is added.

It would be obvious to one of ordinary skill in the art to add the zinc oxide that KUNKLE teaches in between the paper strip and the polyethylene layer that modified LUDDE teaches.

The motivation to do so can be found in lines 7 – 11 of column 5 of KUNKLE teaches that the zinc oxide increases the resistance to deterioration upon exposure to ultraviolet radiation.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

14. Claims 19, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUDDE (U.S. 525,912) in view of MAY (U.S. 4,751,122) and SULLIVAN (U.S. 6,136,053).and further in view of COTE (U.S. 3,155,273).

The above discussion of modified LUDDE as applied to claims 16 – 17 and, 24 is incorporated herein by reference.

Modified LUDDE does not appear to disclose the helical formation strip is surrounded by plastic, cardboard, or paper, for the formation of a unit nor a central hole.

However, COTE teaches a carton with a window cut out of the top wall from

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which tissues may be extracted in reference claim 1.

It would be obvious to one of ordinary skill in the art to place the helical formation strip that LUDDE teaches in the carton that COTE teaches.

The motivation to do can be found in lines 13 – 21 of column 1 of COTE. COTE teaches that the carton protects the goods inside from dust and permits the removal from at least the top wall of the carton.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

### **Conclusion**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. FEAR (U.S. 1,275,543) teaches an ignition tape in lines 15 - 25 that is adapted to be coiled into a compact bundle and available for use in producing a flame for ignition purposes. PIEPGRASS (U.S. 284,057) teaches in lines 8 – 16 of page 1 that a fire-kindler composed of a convoluted coil of veneer, card-board, or other equivalent material which is saturated with resin, oleic acid, or other inflammable material. FREDERICKSON (U.S. 443,986) teaches a pocket lighting device in lines 12 – 19 of page 1 that is a continuous strip of combustible material having at intervals a small quantity of a compound adapted to take fire by friction and a box or case having devices adapted to direct said compound and separate a portion of said strip from the remainder.

15. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to MING CHEUNG PO whose telephone number is (571)270-5552. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571)272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ming Cheung Po

Patent Examiner

AU: 1797

//Cephia D. Toomer//

Primary Examiner, Art Unit 1797